

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

MATTHEW KLING, Individually and §
On Behalf of All Similarly Situated
Persons,
Plaintiff,

V. § CIVIL ACTION NO. 4:20-cv-0892

DATALOG GEOLOGICAL SERVICES,
LLC and ERNEST FUHRMANN,
Defendants. § JURY DEMANDED

PLAINTIFF’S ORIGINAL COLLECTIVE ACTION COMPLAINT

Summary of Lawsuit

Defendants Datalog Geological Services, LLC (“Datalog”) and Ernest Fuhrmann (“Fuhrmann”) employ hourly well site geologists, require them to work well over 40 hours per week, and do not pay them for all of the overtime hours that they actually work. Plaintiff Matthew Kling (“Kling” or “Plaintiff”) is one of a number of such employees, and he brings this lawsuit on behalf of himself and all others similarly situated to recover this unpaid overtime and associated relief under the Fair Labor Standards Act, 29 U.S.C. §§ 207(a), 216(b) (“FLSA”).

Facts Supporting Relief

Allegations Related to Plaintiff’s and His Co-Workers’ Claims

1. Matthew Kling worked for Datalog Geological Services, LLC as a field geologist from about February of 2017 through February of 2020. Kling’s duties included, but were not limited to, monitoring rig activities, collecting samples, and running tests on them in laboratories on oil and gas well sites.

2. Throughout his employment, Kling regularly worked over 40 hours per week. He

typically worked a minimum of 12 hours per day and 5 days per week, and frequently a great deal more. It was not uncommon for him to work double 12-hour shifts.

3. Defendants paid Kling hourly, at times \$10/hour, and at other times \$12/hour. Defendants paid Kling his regular rate for the hours over 40 and one-and-one-half times his regular hourly rate for some of the hours over 40 that he worked in a week.

4. For many of the hours that Kling worked over 40 in a week, however, he was paid nothing at all. For example, when Kling worked two back-to-back 12-hour shifts, for those 24 hours of work he was paid for only 18 hours.

5. Upon information and belief this was and is Defendants' pay policy across the board, not just as to Kling but also the other well site geologists.

Allegations Regarding FLSA Coverage

6. Defendant Datalog is a Texas limited liability company that is covered by and subject to the overtime requirements of the FLSA.

7. Defendant Fuhrmann is upon information and belief the owner and principal of Datalog, who operates the business on a day-to-day basis and specifically determined the terms and conditions of the employment of Kling and other well site geologists employed with the business. These employees complained to Fuhrmann about the pay issues that are the subject of this Complaint, because he was the person who could have done something to solve this problem, but these complaints were to no avail. Fuhrmann is an employer under the FLSA with respect to Kling and similarly situated well site geologists under that statute.

8. During each of the three years prior to this complaint being filed, Defendants are and have been an enterprise engaged in interstate commerce, namely, a mud logging and well site service company with annual gross revenues over \$500,000 and employees handling goods

and materials that have traveled in interstate commerce, including chemicals and computers made outside the State of Texas.

Plaintiff's Claims

9. Defendants were legally required to pay Kling and his similarly situated well site geologists (also known as, among other things, “mud loggers,” “surface geologists,” etc.) (“Members of the Class”) overtime pay for all hours that these individuals worked for Defendants in excess of 40 in any workweek.

10. Kling worked over 40 hours in many workweeks that he worked for Defendants.

11. Members of the Class worked over 40 hours in many workweeks that they worked for Defendants.

12. Defendants did not pay Kling at all for many of the overtime hours that he worked for Defendants.

13. Similarly, Defendants did not pay the Members of the Class at all for many of the overtime hours that they worked for the Defendants.

14. The Defendants knowingly, willfully, or with reckless disregard carried out their illegal pattern or practice regarding overtime compensation with respect to Plaintiff and Members of the Class. Such practice was, and continues to be with regard to the Members of the Class, a clear violation of the FLSA.

Cause of Action

Violation of the FLSA – Failure to Pay Overtime Wages Owed

15. Defendants violated the FLSA by failing to pay Kling and Members of the Class for many of the hours that they worked over 40 in the workweek.

16. Kling and Members of the Class have suffered damages as a direct result of Defendants' illegal actions.

17. Defendants are liable to Plaintiff and all Members of the Class for unpaid overtime compensation, liquidated damages, attorney's fees and costs of Court under the FLSA, for the three-year period preceding the filing of this lawsuit.

Collective Action Allegations

18. The Defendants' failure to pay its employees as required by the FLSA resulted from a generally applicable policy that does not depend on the personal circumstances of the Members of the Class; that is, paying non-exempt well site geologists workers on an hourly basis but not paying them for all of the hours that they actually worked. This generally applicable policy is prohibited by the FLSA. Thus, Plaintiff's experience is typical of the experiences of the Members of the Class.

19. The class of similarly situated Plaintiffs is properly defined as:

All well site geologists who were employed on an hourly basis by Defendants Datalog Geological Services, LLC and Ernest Fuhrmann at any time during the three-year period preceding the filing of this Complaint.

Defendants, Jurisdiction, and Venue

20. Defendant Datalog Geological Services, LLC is a Texas limited liability company and an "employer" as defined by the FLSA. Datalog may be served through its registered agent, Ernest Fuhrmann at 7410 FM 1488, Magnolia, Texas 77354, or wherever he may be found.

21. Defendant Ernest Fuhrmann may be served at 7410 FM 1488, Magnolia, Texas 77354, or wherever he may be found.

22. This Court has federal question jurisdiction under the FLSA, and venue is proper pursuant to 28 U.S.C. § 1391(b), as Defendants and Plaintiff transacted business within this

judicial district, and the events underlying this complaint occurred within this judicial district as well.

Demand for Jury

23. Plaintiff demands a trial by jury.

Prayer for Relief

WHEREFORE, Plaintiff and all employees similarly situated who join in this action demand:

1. Issuance of notice as soon as possible to all well site geologists who are/were employed by and paid on an hourly basis by Defendants during the three-year period immediately preceding the filing of this Complaint. Generally, this notice should inform them that this action has been filed, describe the nature of the action, and explain their right to opt into this lawsuit if they were not paid correctly for work performed or hours worked during any portion of the statutory period;
2. Judgment against Defendants for an amount equal to Plaintiff's and the Members of the Class's unpaid overtime wages at the applicable rate;
3. An equal amount to the overtime wage damages as liquidated damages;
4. Judgment against Defendants that their violations of the FLSA were willful;
5. To the extent that liquidated damages are not awarded, an award of prejudgment interest;
6. All costs and attorney's fees incurred prosecuting these claims;
7. Leave to add additional Plaintiffs by motion, the filing of written consent forms, or any other method approved by the Court;
8. For such further relief as the Court deems just and equitable.

Respectfully submitted,

THE BUENKER LAW FIRM

/s/ Josef F. Buenker

Josef F. Buenker

TBA No. 03316860

jbuenker@buenkerlaw.com

2060 North Loop West, Suite 215

Houston, Texas 77018

713-868-3388 Telephone

713-683-9940 Facsimile

**ATTORNEY-IN-CHARGE FOR
PLAINTIFF MATTHEW KLING**

OF COUNSEL:

Vijay Pattisapu

TBA No. 24083633

S.D. Tex. No. 1829615

vijay@buenkerlaw.com

THE BUENKER LAW FIRM

2060 North Loop West, Suite 215

Houston, Texas 77018

713-868-3388 Telephone

713-683-9940 Facsimile

ATTORNEY FOR PLAINTIFF

MATTHEW KLING